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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,510	04/01/2004	Evelyn N. Drake	2003UR021	8615

7590

12/01/2005

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EXAMINER

HUGHES, SCOTT A

ART UNIT	PAPER NUMBER
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3663

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,510

Applicant(s)

DRAKE ET AL.

Examiner

Scott A. Hughes

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-13, 15, 17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-8, 10-13, 15, 17 and 20 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The amendment to claim 18 is sufficient to overcome the objection in the office action dated 7/12/2005.

Based on applicant's amendment to the claims and arguments presented a new restriction/election is warranted. Any inconvenience to the applicant is regretted.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-8, 10-13, 15 and 20, drawn to methods for increasing the rise time of air bubbles emitted from a diffuser in water, classified in class 367, subclass 24.
 - II. Claims 17-18, drawn to an apparatus for creating a bubble layer in water, classified in class 367, subclass 141.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the method could be performed by a

different apparatus such as another type of diffuser that is not the specific hose diffuser with first and second Y-tubes.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

3. Upon election of Group I or Group II, the applicant is further required to elect a single species under U.S.C. 121 for the purpose of examination. This additional requirement is to facilitate examining due to the broad range of possible method steps involving the chemical additive and the diffuser:

Elect the steps involved in using a chemical additive with a diffuser.

For example:

The method of coating the diffuser before use with a chemical additive having bubble coalescence retardation properties or wetting agent properties or both only.

OR

The method of mixing a chemical additive in with the air within the diffuser before the bubbles are emitted from the diffuser, said chemical additive having bubble coalescence properties or wetting

agent properties or both; and injecting a chemical additive into the water in the region where the bubbles are emitted from the diffuser, said chemical additive having bubble coalescence properties or wetting agent properties or both only.

OR

The method of coating the diffuser before use with a chemical additive having bubble coalescence properties or wetting agent properties or both; mixing a chemical additive in with the air within the diffuser before the bubbles are emitted from the diffuser, said chemical additive having bubble coalescence properties or wetting agent properties or both; injecting a chemical additive into the water region where the bubbles are emitted from the diffuser, said chemical additive having bubble coalescence properties or wetting agent properties or both; and mixing a chemical additive having wetting agent properties into the diffuser during fabrication only.

Note: In regard to the single species election of the steps of using a chemical additive with a diffuser, the election should not be open-ended (i.e. comprising). An open ended election will be considered non-responsive.

4. Upon election of a single species from above, the applicant is further required under U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims are generic):

- a. Using a chemical additive have bubble coalescence retardation properties.
- b. Using a chemical additive having wetting agent properties.
- c. Using a chemical additive having both bubble coalescence retardation properties and wetting agent properties.

5. Upon election of species a, b, or c, the applicant is further required under U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims are generic):

- aa. The diffuser is a perforated hose made from polymeric material.
- bb. The diffuser is a perforated hose made from elastomeric material.
- cc. The diffuser is a perforated rubber and linear low density polyethylene hose.

Art Unit: 3663

6. Upon election of species aa, bb or cc, the applicant is further required under U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims are generic):
 - i. Preconditioning the diffuser by soaking it in fresh water before coating it.
 - ii. Preconditioning the diffuser by bubbling it in fresh water before coating it.
 - iii. Preconditioning the diffuser by soaking it in salt water before coating it.
 - iv. Preconditioning the diffuser by bubbling it in salt water before coating it.

7. Upon election of species i, ii, iii, or iv, applicant t is further required under U.S.C. 121 to elect one of the following disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable (currently, no claims are generic):
 - A. The chemical additive is atomized prior to mixing.
 - B. The chemical additive is NOT atomized prior to mixing.

8. Upon election of the species identified above (paragraphs 4-7), the applicant is further required to elect a single species under U.S.C. 121 for the purpose of examination. This additional requirement is to facilitate examining due to the broad range of materials or compositions that can be included in the chemical additives of the applicant's bubble layer process.

1. Elect the chemical additive (e.g. Exxal-13 diluted in ethanol only or the chemical additive consisting of Pluronic L81 and Pluronic L62).


Note: In regard to the single species election of the chemical additive, the election should not be open-ended (i.e. comprising). An open ended election will be considered non-responsive.


9. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
10. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).
11. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

12. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott A. Hughes whose telephone number is 571-272-6983. The examiner can normally be reached on M-F 9:00am to 5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on (571) 272-6878. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


SAH


JACK KEITH
SUPERVISORY PATENT EXAMINER